

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF PINAL

THE STATE OF ARIZONA,	)	
	)	
Plaintiff,	)	CR2016-148530-001
	)	
vs.	)	
	)	
MICHELLE MARIE BASTIAN (001)	)	PLEA AGREEMENT
1/21/1967	)	
	)	
Defendant.	)	
	)	(Honorable Danielle Viola)
	)	

The State of Arizona and the Defendant hereby agree to the following disposition of this case:

Plea: The Defendant agrees to plead **GUILTY** to:

**COUNT 3: TERRORISM, a class 2 felony, in violation of A.R.S. §§ 3-2308.01(A)(5), 13-2301, 13-701, 13-702, 13-801, and 13-902, committed on or between May 1, 2016 and October 12, 2016 and**

**COUNT 4: CONSPIRACY TO COMMIT MISCONDUCT INVOLVING WEAPONS, a class 4 felony, in violation of A.R.S. §§ 13-3102, 13-1003, 13-301, 13-302, 13-303, 13-304, 13-305, 13-701, 13-702, 13-703, and 13-801 committed on or between May 1, 2016 and June 1, 2016 with two prior felony convictions,**

**(convictions for Theft, a class 3 felony committed on or between 7/1/2002 and 12/31/2002 and convicted on 9/06/2006 in Maricopa County CR2006-007066 represented by counsel, and Theft, a class 3 felony committed on or between 1/1/2004 and 12/31/2004 and convicted on 9/6/2006 in Maricopa County CR2006-007066 represented by counsel, under her prior name of Michelle Marie Blanchard).**

Count 3 is a non-repetitive, non-dangerous crime under the criminal code.

Count 4 is a repetitive, non-dangerous crime under the criminal code.

***THIS OFFER EXPIRES AND IS REVOKED IF NOT ENTERED IN COURT BY June 2, 2017.***

Terms: On the following understandings, terms and conditions:

- \_\_\_ 1. **As to Count 3:** Pursuant to A.R.S. §§13-702(D) and 13-2308.01, the crime as a class 2 felony carries a presumptive sentence of **5** years; a minimum sentence of **4** years (**3** years if exceptional circumstances); and a maximum sentence of **10** years (**12.5** years if exceptional circumstances). Probation **IS** available. Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. **However, pursuant to statute, if specific aggravating factors are found by the fact-finder, this sentence can range from probation up to the defendant's lifetime in prison.**

**As to Count 4:** Pursuant to A.R.S. §13-703 the crime carries a presumptive sentence of **10** years; a minimum sentence of **8** years (**6** years if exceptional circumstances); and a maximum sentence of **12** years (**15** years if exceptional circumstances). Probation **IS NOT** available. Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required.

**As to All Counts:** The maximum fine that can be imposed is **\$150,000.00 plus an 83% surcharge plus \$20.00 pursuant to A.R.S. § 12-269**. If the Defendant is sentenced to prison, the Defendant shall also be sentenced to serve a term of community supervision equal to one-seventh of the prison term to be served consecutively to the actual period of imprisonment. If the Defendant fails to abide by the conditions of community supervision, the Defendant can be required to serve the remaining term of community supervision in prison. Within 30 days of being sentenced, pursuant to A.R.S. 13-610, the defendant shall provide a sufficient sample of blood or other bodily substance for deoxyribonucleic acid (DNA) testing and extraction to be used for law enforcement

identification purposes and/or for use in a criminal prosecution and/or for use in a proceeding under title 36, chapter 37. Special conditions regarding the sentence imposed by statute (if any) are: **Lifetime probation is available on Count 3 pursuant to A.R.S. §13-902(E).**

- \_\_\_ 2. The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in paragraph 7:  
**--As to Count 4, the defendant will be sentenced to the Arizona Department of Corrections for a term of 8.5 to 10 years.**  
**--As to Count 3, the defendant shall be placed on supervised probation for a term of her lifetime to begin upon her physical discharge from the Arizona Department of Corrections on Count 4.**  
  
**--The defendant stipulates to the following aggravators for her sentence in Count 4: Pursuant to A.R.S. §13-701(D)(1), the delivery of or conveyance of plans for explosive devices into a prison setting involves the threatened infliction of serious physical injury or death to the prison population and/or staff; pursuant to A.R.S. §13-701(D)(4), the offense involved an accomplice.**
- \_\_\_ 3. The following charges are dismissed, or if not yet filed, shall not be brought against the Defendant by the Arizona Attorney General's Office: **Counts 2, 5 6, as to Michelle Marie Bastian only; Allegation of Prior Felony Convictions for sentencing enhancement pursuant to A.R.S §13-703.**  
**The Arizona Attorney General's Office agrees not to file felony forgery charges arising out of certain evidence discovered in the search warrants and documented in the reports labeled P-2016-2352.**
- \_\_\_ 4. This agreement serves to amend the complaint, indictment, or information, to charge the offense to which the Defendant pleads, without the filing of any additional pleading. However, if the plea is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.
- \_\_\_ 5. If the Defendant is charged with a felony, he hereby waives and gives up his rights to a preliminary hearing or other probable cause determination on the charges to which he pleads. The Defendant agrees that this agreement shall not be binding on the State should the Defendant be charged with or commit a crime between the time of this agreement and the time for sentencing in this cause; nor shall this agreement be binding on the State until the State confirms all representations made by the Defendant and his attorney, to-wit: **The defendant avows to having no more than 2 prior felony convictions and further avows that she was not on probation, parole, community supervision or other release at the time of the offense.** If the Defendant fails to appear for sentencing, the court may disregard the stipulated sentence and impose any lawful sentence which is the same as or exceeds the stipulated sentence in the plea agreement. In the event the court rejects the plea, or either the State or the Defendant withdraws the plea, the Defendant hereby waives and gives up his right to a preliminary hearing or other probable cause determination on the original charges.
- \_\_\_ 6. Unless this plea is rejected by the court or withdrawn by either party, the Defendant hereby waives and gives up any and all motions, defenses, objections, or requests which he has made or raised, or could assert hereafter, to the court's entry of judgment against him and imposition of a sentence upon him consistent with this agreement. By entering this agreement, the Defendant further waives and gives up the right to appeal.
- \_\_\_ 7. The parties hereto fully and completely understand and agree that by entering into a plea agreement, the defendant consents to judicial fact finding by preponderance of the evidence as to any aspect or enhancement of sentence and that any sentence either stipulated to or recommended herein in paragraph two is not binding on the court. In making the sentencing determination, the court is not bound by the rules of evidence. If after accepting this plea the court concludes that any of the plea agreement's provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea. If the court decides to reject the plea agreement provisions regarding sentencing, it must give both the state and the Defendant an opportunity to withdraw from the plea agreement. In case this plea agreement is withdrawn, all original charges will automatically be reinstated. The Defendant in such case waives and gives up his right to a probable cause determination on the original charges.

- \_\_\_ 8. If the court decides to reject the plea agreement provisions regarding sentencing and neither the State nor the Defendant elects to withdraw the plea agreement, then any sentence either stipulated to or recommended herein in paragraph 2 is not binding upon the court, and the court is bound only by the sentencing limits set forth in paragraph 1 and the applicable statutes.
- \_\_\_ 9. This plea agreement does not in any way compromise, or provide any protection or defense with regard to, any civil action, whether by or on behalf of a victim or any government entity, and whether previously or later filed, including but not limited to an action pursuant to A.R.S. Title 13, Chapter 23 or § 13-4301-4315; nor does it abrogate or limit the provisions of A.R.S. § 13-2314(H) or A.R.S. § 13-4310(C), or in any other way adversely affect the State in any current or future forfeiture proceeding or other civil action pursuant to A.R.S. § 13-2314, § 13-4301-4315, or § 32-1993, if applicable.
- \_\_\_ 10. I understand that if I am not a citizen of the United States that my decision to go to trial or enter into a plea agreement may have immigration consequences. Specifically, I understand that pleading guilty or no contest to a crime may affect my immigration status. Admitting guilt may result in deportation even if the charge is later dismissed. My plea or admission of guilt could result in my deportation or removal, could prevent me from ever being able to get legal status in the United States, or could prevent me from becoming a United States citizen. I understand that I am not required to disclose my legal status in the United States to the court.
- \_\_\_ 11. I have read and understand all of the provisions, on all of the pages, of this agreement. I have discussed the case and my constitutional rights with my lawyer. My lawyer has explained the nature of the charge(s) and the elements of the crime(s) to which I am pleading. I understand that by pleading **GUILTY** I will be waiving and giving up my right to a determination of probable cause, to a trial by jury to determine guilt and to determine any fact used to impose a sentence within the range stated above in paragraph one, to confront, cross-examine, compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination, presumption of innocence and right to appeal. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this plea agreement, I am granted probation by the court, the terms and conditions thereof are subject to modification at any time during the period of probation. I understand that if I violate any of the written conditions of my probation, my probation may be terminated and I can be sentenced to any term or terms stated above in paragraph one, without limitation.

I have personally and voluntarily placed my initials in each of the above boxes and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement.

Date: \_\_\_\_\_ Defendant MICHELLE MARIE BASTIAN

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I have also explained the nature of the charge(s) and the elements of the crime(s). I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date: \_\_\_\_\_ Defense Counsel SHANNON ALLEN

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date: \_\_\_\_\_ Prosecutor BLAINE GADOW/SCOTT BLAKE AAG

**FACTUAL BASIS ADDENDUM:**

\_\_\_ 1. The parties hereto fully and completely agree to the following factual basis for the offenses committed by Defendant:

Count 3: On or between May 1, 2016 and October 12, 2016, in Maricopa and Pinal Counties, MICHELLE MARIE BASTIAN, at the direction and request of THOMAS BASTIAN, knowingly sent property and items to THOMAS BASTIAN, an inmate at Arizona Department of Corrections, knowing or having reason to know that those items would be used by THOMAS BASTIAN to facilitate an act of terrorism. These items included instructions about how to make a homemade explosive device as well as propaganda and information about the Islamic State of Iraq and Syria and that group's terror activity.

Count 4: On or between May 1, 2016 and October 12, 2016, MICHELLE MARIE BASTIAN, in Maricopa and Pinal Counties, conspired with THOMAS BASTIAN, an inmate at Arizona Department of Corrections, to commit Misconduct Involving Weapons, by agreeing that she would furnish instructions to him, and by actually furnishing instructions, on how to construct an improvised explosive device for his use in the prison. An improvised explosive device is a prohibited weapon pursuant to Arizona law. This conspiracy occurred through direct inmate visits, U.S. Mail delivery, and telephonic conversation between MICHELLE and THOMAS BASTIAN for THOMAS BASTIAN's intended use inside the prison.

I have personally and voluntarily placed my initials in each of the above boxes and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement.

Date: \_\_\_\_\_ Defendant MICHELLE MARIE BASTIAN

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I have also explained the nature of the charge(s) and the elements of the crime(s). I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date: \_\_\_\_\_ Defense Counsel Shannon Allen

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date: \_\_\_\_\_ Prosecutor Blaine Gadow AAG